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## NOTICE OF ALLOWANCE AND FEE(S) DUE

181 7590 03/26/2010

MILES & STOCKBRIDGE PC  
1751 PINNACLE DRIVE  
SUITE 500  
MCLEAN, VA 22102-3833

EXAMINER

BENGZON, GREG C

ART UNIT

PAPER NUMBER

2444

DATE MAILED: 03/26/2010

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/735,919

04/09/2001

Marc Herrmann

T2147-906756

5817

TITLE OF INVENTION: METHOD AND DEVICE FOR DEPLOYING A DISTRIBUTED MONITORING

| APPLN. TYPE    | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE   |
|----------------|--------------|---------------|---------------------|----------------------|------------------|------------|
| nonprovisional | NO           | \$1510        | \$300               | \$0                  | \$1810           | 06/28/2010 |

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
Commissioner for Patents  
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Alexandria, Virginia 22313-1450  
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

181 7590 03/26/2010

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MCLEAN, VA 22102-3833

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

|                    |
|--------------------|
| (Depositor's name) |
| (Signature)        |
| (Date)             |

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/735,919      | 04/09/2001  | Marc Herrmann        | T2147-906756        | 5817             |

TITLE OF INVENTION: METHOD AND DEVICE FOR DEPLOYING A DISTRIBUTED MONITORING

| APPLN. TYPE    | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE   |
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| nonprovisional | NO           | \$1510        | \$300               | \$0                  | \$1810           | 06/28/2010 |

| EXAMINER        | ART UNIT | CLASS-SUBCLASS |
|-----------------|----------|----------------|
| BENGZON, GREG C | 2444     | 709-224000     |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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| 09/735,919  | 04/09/2001  | Marc Herrmann        | T2147-906756        | 5817             |
| 181   | 7590        | 03/26/2010           | EXAMINER            |                  |
| MILES & STOCKBRIDGE PC<br>1751 PINNACLE DRIVE<br>SUITE 500<br>MCLEAN, VA 22102-3833 |             |                      | BENZON, GREG C      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2444                |                  |
| DATE MAILED: 03/26/2010   |             |                      |                     |                  |

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 212 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 212 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

|                               |                        |                     |  |
|-------------------------------|------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                               | 09/735,919             | HERRMANN ET AL.     |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                               | GREG BENZON            | 2444                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 01/12/2010.
2. ☒ The allowed claim(s) is/are Claims 26-45, renumbered Claims 1-20 respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date <u>01/12/2010</u></li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|--|

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 01/12/2010 has been entered.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 01/12/2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Allowable Subject Matter***

Claims 26-45 are allowed.

The following is an examiner's statement of reasons for allowance:

The provision for --- *a method and device for distributed monitoring comprising a computer configured to deploy a distributed monitoring of a computer system having a plurality of resources to be monitored by said deployment device, wherein said resources form a monitored domain, said deployment device including a computer*

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Art Unit: 2444

readable storage medium upon which is encoded a sequence of instructions, which when executed by the computer, ~~cause~~ the deployment device to establish distributed monitoring of the computer system; and

Deleted: causes

a plurality of indicator agents stored on a computer readable storage medium each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers, instantiating associated variables using a network management protocol, and unifying the object identifiers using a unifiability criteria;

~~a configuration module encoded with a sequence of instructions to specify one or more domains of the computer system in which each said indicator agent is to be deployed, the configuration module, comprising a configuration deployment agent that creates a configuration agent for creating the plurality of indicator agents for the resource, and each indicator agent evaluates one of the plurality of indicators and manages an associated subscriber list; and~~

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Deleted: means

~~writing modules associated with each indicator agent, and encoded with a sequence of instructions to write in the associated subscriber list, upon receiving a subscription notification from at least one other indicator agent, an identification and management information of said at least one other indicator agent, and the subscriber list being managed by the associated indicator agent and stored using storage means of the resource associated with the indicator agent~~

Deleted: means

Deleted: each said writing means being configured

--- wherein all the features previously described are combined in one singular embodiment, is not fairly taught or suggested by the prior art of record.

The Examiner interprets the computer readable storage medium as described in Applicant Specifications Page 8 Lines 10 and thus concludes that said storage medium is comprising of statutory subject matter.

The Examiner finds particular novelty in the method and deployment device for the deployment of distributed monitoring agents for distributed monitoring of a computer system having a plurality of resources to be monitored by said deployment device, where said resources form a monitored domain, said method deploying a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers, instantiating associated variables using a network management protocol, and unifying the object identifiers using a unifiability criteria (as described in the Applicant Specification page 20) further comprising creating the plurality of indicator agents for the resource, wherein each indicator agent evaluates one of the plurality of indicators and manages an associated subscriber list; (Page 10 Lines 10-15) and writing, using writing means associated with each indicator agent, in the associated subscriber list, upon receiving a subscription notification (page 10 Lines 15-25) from at least one other indicator agent, an identification and management information of said at least one other indicator agent, wherein the subscriber list is being

Art Unit: 2444

managed by the associated indicator agent and stored using storage means of the resource associated with the indicator agent.

The Examiner finds particular novelty in the identifier unification process using the unifiability criteria which makes it possible both to verify that two identifiers are unifiable and to determine for which values of the variables that are still free prior to the start of the unification process.

Kagei disclosed wherein an agent apparatus autonomously notifies the manager apparatus of the subject and content of a test made for the sub-network, executes the test in accordance with the test content, and reports sequentially the test result to the manager apparatus. However Kagei does not disclose deploying a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers, instantiating associated variables using a network management protocol, and unifying the object identifiers using a unifiability criteria. Kagei does not disclose creating the plurality of indicator agents for the resource, wherein each indicator agent evaluates one of the plurality of indicators and manages an associated subscriber list; and writing, using writing means associated with each indicator agent, in the associated subscriber list, upon receiving a subscription notification from at least one other indicator agent, an identification and management information of said at least one other indicator agent, wherein the subscriber list is being managed by the associated indicator



Art Unit: 2444

agent and stored using storage means of the resource associated with the indicator agent.

Fisher disclosed wherein the same resource and/or sub-pool names or identifiers can appear in more than one pool hierarchy but the names or identifiers are not correlated with the same object. While only one pool hierarchy should be required for a given value type (e.g., IP addresses), it is possible to create more than one pool hierarchy for the same value type. This would be advantageous in the case where the same resource could be allocated more than once. However Fisher does not disclose deploying a plurality of indicator agents each configured to evaluate an indicator comprising a value characterizing a status or an operation of one or more resources of the computer system and an indicator-defining function for determining said value by searching through object identifiers, instantiating associated variables using a network management protocol, and unifying the object identifiers using a unifiability criteria. Fisher does not disclose creating the plurality of indicator agents for the resource, wherein each indicator agent evaluates one of the plurality of indicators and manages an associated subscriber list; and writing, using writing means associated with each indicator agent, in the associated subscriber list, upon receiving a subscription notification from at least one other indicator agent, an identification and management information of said at least one other indicator agent, wherein the subscriber list is being managed by the associated indicator agent and stored using storage means of the resource associated with the indicator agent.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. B./  
Examiner, Art Unit 2444  
/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444

